IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 5401 of 2007

Date of decision : October 11 , 2007

M/S Evershine Founders & Engineers,
.....Petitioner

through Mr. G.S.Bajwa, Advocate

v.

State of Punjab & others,
.....Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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RAJIVE BHALLA,J

The petitioner prays for the issuance of directions to the respondents to implement resolution, dated 24.7.1995, whereby respondent No.2 had exempted/accommodated built up properties, in terms of the sanctioned final lay out plan, dated 23.11.1995, bearing No. DTP (ASR) 3286/1995.

Counsel for the petitioner contends that the Improvement Trust, Amritsar notified its intention to acquire land, including the petitioner's land, vide notice, dated 14.12.1994. The petitioner filed objections and was called upon to appear before the Improvement Trust for adjudication of the objections. It is contended that as per proceedings, dated 24.7.1995, the Divisional Town Planner, Amritsar was directed to adjust/accommodate property, already constructed in the lay out plan, keeping in view the

guidelines, issued by the Government. A final notification, under Section 42 of the Punjab Town Improvement Act, 1922 (for short herein after referred to as "the Act"), was issued on 17.1.1996. A notice, under Section 9 of the Land Acquisition Act, 1894, was served upon the petitioner to produce proof of ownership/area etc. The Land Acquisition Collector, thereafter, pronounced his award on 16.1.1998. The award accommodated the built up area. However, the matter, with reference to exemption of built up area was once again considered by the Improvement Trust, as the petitioner raised objections that its built up area was not released. Pursuant to resolution No.221, dated 5.5.1998, the Divisional Town Planner prepared four alternative plans. Vide resolution No.57, dated 30.3.2000, alternative plan drawing No.DTP(A)/51/2000, dated 16.3.2000 was approved by the Improvement Trust. It is further contended that in the meanwhile, similarly situated persons impugned the action of the respondents, before this Court, in not exempting their built up areas, by way of CWP No.2077 of 2001, M/S Woollen Processors Pvt. Ltd and others vs The State of Punjab & others. The said writ petition was allowed, vide judgment dated 25.2.2002. On the basis of the aforementioned judgment, the petitioner served a legal notice, dated 12.5.2005, upon the Improvement Trust, demanding release of its built up area. The petitioner also sent a representation, dated 30.1.2006, addressed to the Government of Punjab.

It is further contended that as similarly situated companies have successfully obtained release of their land, through Court or otherwise, the respondents were bound to extend similar benefit to the petitioner.

In view of the aforementioned assertions, it is prayd that the petitioner's land be released, in accordance with the judgment of this Court.

On 16.4.2007, counsel for the petitioner prayed for time to place on record relevant documents, showing financial standing of the petitioner. Vide C.M.No.14329 of 2007, the petitioner has placed on record documents, Annexures P-18 to P-21. A perusal of these documents, which are in the shape of income tax return, balance sheet for the year 2002-2003, etc., clearly reveals that the petitioner-firm is not transacting any business.

We have heard learned counsel for the petitioner and perused the paper book.

Notification, under Section 36 of the Act, was issued as far back as on 14.12.1994. The petitioner received a notice, under Section 38 of the Act, vide communication, dated 1.2.1995. Objections, under Section 38, (equivalent to objections, under Section 5-A of the Land Acquisition Act), were heard on 24.7.1995. The scheme was finally published, pursuant to a notification, under Section 42 of the Act, on 17.1.1996. A notice, under Section 9 of the Land Acquisition Act, dated 12.3.1997, was served upon the petitioner. Thereafter, the Land Acquisition Collector pronounced his award on 16.1.1998.

The petitioner did not take any steps, except to serve a legal notice and representation, dated 12.5.2005 and 30.1.2006 respectively, to impugn the acquisition proceedings. No explanation, whatsoever, has been set out in the pleadings to explain this gross and inordinate delay for almost 10 years in approaching this Court. It would be appropriate to mention that even the legal notice and representation were filed seven/eight years after the award, and the order in CWP No.2077 of 2001, relied upon by counsel for the petitioner, was pronounced on 25.5.2002. A careful perusal of Annexures P-18 to P-21 discloses that the petitioner's firm is not

transacting any business. Thus, for the petitioner to contend that this is an existing industry, which should not be acquired, is a travesty of facts. In view of the unexplained gross and inordinate delay in approaching this Court, we are left with no alternative except to dismiss the writ petition in limine. Ordered accordingly.

(RAJIVE BHALLA)
JUDGE

(UMA NATH SINGH)
JUDGE

October 11 , 2007
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